

REMARKS

Applicants thank Examiner Ashton for her courteous and congenial telephone interview with Applicants' representative on November 22, 2005.

Claims 5-7, 11-13 and 15 are pending in the present application.

Claims 14 and 16-17 are canceled with this Amendment without prejudice or disclaimer.

Entry of the amendments is proper under 37 C.F.R. §1.116 since the amendments: a) place the application in condition for allowance (for the reasons discussed herein); b) do not raise any new issues requiring further search and consideration; and c) place the application in better form for appeal, should an appeal be necessary. The amendments were not previously made because canceled claims 14 and 16-17 were added in response to the Office Action mailed April 8, 2005. The present Final Rejection placed a restriction on claims 14 and 16-17. Accordingly, to expedite allowance of the present application, or place the application in better form for an appeal, Applicants are canceling claims 14 and 16-17 with this Amendment. Entry of the amendments is thus respectfully requested.

Claims 14, 16 and 17 were withdrawn from consideration as being directed to a non-elected invention under 37 C.F.R. §1.142(b) and MPEP §821.03.

Claims 14, 16 and 17 are canceled. Accordingly this issue is moot.

The amendment of the specification filed July 11, 2005 is objected to under 35 U.S.C. §132(a) as allegedly introducing new matter into the disclosure. Applicants respectfully traverse this objection.

As pointed out in the telephone interview the specification was amended to correct the term "intensity" to the term "power". Amending the disclosure to add new language is not *ipso facto* new matter when the amendments to the specification merely render what had been implicitly disclosed originally. *In re Wright*, 145 U.S.P.Q. 182 (C.C.P.A. 1965). Further, an amendment to the disclosure does not violate the new matter rule if it merely clarifies or completes the original disclosure. *In re Heinle*, 145 U.S.P.Q. 131 (C.C.P.A. 1965). The amount of energy used to affect a color or shade change is expressed in the disclosure as "mW". This expression was part of the original disclosure. For example, see page 5, lines 29-31 of the specification. The expression "mW" or milliwatts (1/1000 of a watt) is an expression for a unit of power called watts, not intensity. Page 469 of Grant & Hackh's *Chemical Dictionary*, fifth

edition defines a watt as a unit of power, not intensity (submitted in a Supplemental Information Disclosure Statement on February 23, 2005). In contrast, the same dictionary defines the term "intensity" as the strength or amount of energy per unit space, area or time (page 306 of the dictionary). Accordingly, the term "power" was implicit in the specification as filed, and the amendment to the specification clarifies the original disclosure.

Additionally, an amendment correcting an error in the specification is not new matter if the person of skill in the art would appreciate not only the existence of the error but what the error is. *In re Oda*, 170 U.S.P.Q. 272 (C.C.P.A. 1971). The person of skill in the art would know based the units of mW that the Applicants' were measuring power not intensity. As discussed above, power is measured in watts and intensity in units of power per units of time, area or space. Accordingly, no new matter was entered into the disclosure.

Applicants respectfully request withdrawal of the objection of the specification under 35 U.S.C. §132(a) as allegedly introducing new matter into the specification.

Claims 5-7 and 11-17 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants respectfully traverse this rejection.

Claims 14, 16 and 17 are canceled. Accordingly, the rejection with respect to these claims is moot.

The claims were rejected because of the term "intensity" was corrected to the term "power". However, as discussed above the amendment to the claims as well as the specification does not introduce new matter into the disclosure. Applicants are merely correcting an error and clarifying that which was already implicit in the original disclosure. Accordingly, present claims 5-7, 11-13 and 15 meet the written description requirement.

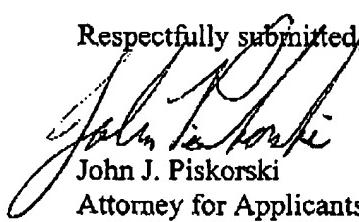
Applicants respectfully request the withdrawal of the rejection of claims 5-7, 11-13 and 15 under 35 U.S.C. §112, first paragraph, as allegedly not meeting the written description requirement.

Favorable consideration and allowance of claims 5-7, 11-13 and 15 are earnestly solicited.

Should the Examiner have any questions concerning this response or this application, or should she believe this application is for any reason not yet in condition for allowance, she is

respectfully requested to telephone the undersigned at the number set forth below in order to expedite allowance of this application.

Respectfully submitted,



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